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PTO/SB/21 (08-00)
Approved for use through 10/31/2002. OMB 0651-0031
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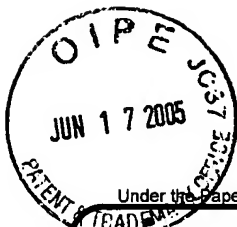
TRANSMITTAL FORM <i>(to be used for all correspondence after initial filing)</i>	Application Number	10/066,207
	Filing Date	01/31/2002
	First Named Inventor	William Pat Price
	Group Art Unit	3629
	Examiner Name	Borissov, Igor N.
Total Number of Pages in This Submission	Attorney Docket Number	K35A0877

ENCLOSURES <i>(check all that apply)</i>		
<input checked="" type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment / Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/ Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Assignment Papers <i>(for an Application)</i> <input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____	<input type="checkbox"/> After Allowance Communication to Group <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input checked="" type="checkbox"/> Appeal Communication to Group <i>(Appeal Notice, Brief, Reply Brief)</i> <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) <i>(please identify below):</i> Postcard
Remarks		

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Date	6/14/05

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FEE TRANSMITTAL for FY 2003

Effective 01/01/2003. Patent fees are subject to annual revision.

☐ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$) 500

Complete if Known

Application Number	10/066,207
Filing Date	01/31/2002
First Named Inventor	William Pat Price
Examiner Name	Borissov, Igor N.
Art Unit	3629
Attorney Docket No.	K35A0877

METHOD OF PAYMENT (check all that apply)

☐ Check ☐ Credit card ☐ Money Order ☐ Other ☐ None

☒ Deposit Account:

Deposit Account Number
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Deposit Account Name
WESTERN DIGITAL

The Commissioner is authorized to: (check all that apply)

☒ Charge fee(s) indicated below ☒ Credit any overpayments

☒ Charge any additional fee(s) during the pendency of this application

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FEE CALCULATION

1. BASIC FILING FEE

Large Entity Fee Code (\$)	Small Entity Fee Code (\$)	Fee Description	Fee Paid
1001 750	2001 375	Utility filing fee	
1002 330	2002 165	Design filing fee	
1003 520	2003 260	Plant filing fee	
1004 750	2004 375	Reissue filing fee	
1005 160	2005 80	Provisional filing fee	

SUBTOTAL (1) (\$)

2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE

Total Claims	Extra Claims	Fee from below	Fee Paid
	-20** =	18.00	
Independent Claims	-3** =	84.00	
Multiple Dependent			

Large Entity Fee Code (\$)	Small Entity Fee Code (\$)	Fee Description
1202 18	2202 9	Claims in excess of 20
1201 84	2201 42	Independent claims in excess of 3
1203 280	2203 140	Multiple dependent claim, if not paid
1204 84	2204 42	** Reissue independent claims over original patent
1205 18	2205 9	** Reissue claims in excess of 20 and over original patent

SUBTOTAL (2) (\$)

**or number previously paid, if greater; For Reissues, see above

FEE CALCULATION (continued)

3. ADDITIONAL FEES

Large Entity Fee Code (\$)	Small Entity Fee Code (\$)	Fee Description	Fee Paid
1051 130	2051 65	Surcharge - late filing fee or oath	
1052 50	2052 25	Surcharge - late provisional filing fee or cover sheet	
1053 130	1053 130	Non-English specification	
1812 2,520	1812 2,520	For filing a request for <i>ex parte</i> reexamination	
1804 920*	1804 920*	Requesting publication of SIR prior to Examiner action	
1805 1,840*	1805 1,840*	Requesting publication of SIR after Examiner action	
1251 110	2251 55	Extension for reply within first month	
1252 410	2252 205	Extension for reply within second month	
1253 930	2253 465	Extension for reply within third month	
1254 1,450	2254 725	Extension for reply within fourth month	
1255 1,970	2255 985	Extension for reply within fifth month	
1401 320	2401 160	Notice of Appeal	
1402 320	2402 160	Filing a brief in support of an appeal	500
1403 280	2403 140	Request for oral hearing	
1451 1,510	1451 1,510	Petition to institute a public use proceeding	
1452 110	2452 55	Petition to revive - unavoidable	
1453 1,300	2453 650	Petition to revive - unintentional	
1501 1,300	2501 650	Utility issue fee (or reissue)	
1502 470	2502 235	Design issue fee	
1503 630	2503 315	Plant issue fee	
1460 130	1460 130	Petitions to the Commissioner	
1807 50	1807 50	Processing fee under 37 CFR 1.17(q)	
1806 180	1806 180	Submission of Information Disclosure Stmt	
8021 40	8021 40	Recording each patent assignment per property (times number of properties)	
1809 750	2809 375	Filing a submission after final rejection (37 CFR 1.129(a))	
1810 750	2810 375	For each additional invention to be examined (37 CFR 1.129(b))	
1801 750	2801 375	Request for Continued Examination (RCE)	
1802 900	1802 900	Request for expedited examination of a design application	

Other fee (specify)

*Reduced by Basic Filing Fee Paid

SUBTOTAL (3) (\$) 500

SUBMITTED BY

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Signature

Howard H. Sheerin

Date

6/14/05

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In re Application of:
William Pat Price
Serial No.: 10/066,207
Filed: 01/31/2002
Title: SYSTEM AND METHOD FOR ENSURING
PRESENTATION OF EMBEDDED RICH
MEDIA ACROSS STATION BOUNDARIES

Group Art Unit: 3629
Examiner: Borissov, Igor N.



BRIEF ON APPEAL

THE COMMISSIONER FOR PATENTS
ALEXANDRIA, VA 22313

Sir,

The following appeal brief is submitted pursuant to a Notice of Appeal filed 06/07/05 for the above-identified application.

REAL PARTY IN INTEREST

The real party in interest for the above-identified patent application is Western Digital Technologies, Inc. (see assignment REEL/FRAME: 012610/0932 identifying Western Digital Technologies, Inc. as assignee of the entire right, title and interest of the above-identified patent application).

RELATED APPEALS AND INTERFERENCES

There are no known appeals or interferences related to the instant appeal.

STATUS OF CLAIMS

Claims 1, 3, 4 and 6-30 are pending.

Claims 2 and 5 have been canceled.

Claims 1, 3, 4 and 6-30 stand rejected under 35 USC §103(a).

STATUS OF AMENDMENTS

There are no outstanding amendments.

SUMMARY OF CLAIMED SUBJECT MATTER

FIGs. 1 and 2 show a method of saving alternative presentation data comprising the steps of:

(step 100) receiving a broadcast stream on a selected channel, the broadcast stream comprising a plurality of programming media segments and at least one rich media segment associated with the alternative presentation data, the at least one rich media segment and the associated alternative presentation data being embedded within the plurality of programming media segments;

(step 102) commencing presenting the at least one rich media segment on the selected channel;

(steps 104,106) saving the alternative presentation data associated with the at least one rich media segment if presenting the at least one rich media segment on the selected channel is interrupted prior to completely presenting the at least one rich media segment on the selected channel; and

(page 7, lines 3-4) presenting the saved alternative presentation data associated with the rich media segment for a time period equivalent to an initial length of time for a presentation of the at least one rich media segment less a length of time that the at least one rich media segment has previously been presented.

ISSUES

- I. Whether claims 1, 3, 4 and 6-30 are patentable under 35 USC §103(a) over Plotnick et al. (US 2002/0144262) in view of Bryant et al. (US 5,652,615).

GROUPING OF CLAIMS

Claims 1, 3, 4 and 6-30 stand rejected and are grouped together for the purpose of this appeal.

THE REFERENCES

The following references are relied upon by the examiner:

Plotnick et al.	2002/0144262	October 3, 2002
Bryant et al.	5,652,615	July 29, 1997

THE REJECTIONS

Claims 1, 3, 4 and 6-30 stand rejected under 35 USC §103(a) as unpatentable over Plotnick in view of Bryant.

Regarding claims 1, 21 and 26, the examiner asserts Plotnick discloses to:

[0060]-[0063] receive a broadcast stream on a selected channel, the broadcast stream comprising a plurality of programming media segments and at least one rich media segment associated with the alternative presentation data, the at least one rich media segment and the associated alternative presentation data being embedded within the plurality of programming media segments;

[0060]-[0063] commence presenting the at least one rich media segment on the selected channel;

[0060]-[0063] saving the alternative presentation data associated with the at least one rich media segment if presenting the at least one rich media segment on the selected channel is interrupted prior to completely presenting the at least one rich media segment on the selected channel; and

[0060]-[0063] displaying the saved alternative presentation data associated with the rich media segment if presenting the at least one rich media segment on the selected channel is

interrupted prior to completely presenting the at least one rich media segment on the selected channel.

The examiner concedes that Plotnick does not disclose that the alternative presentation data is presented for a time period equivalent to an initial length of time for a presentation of the at least one rich media segment less a length of time that the at least one rich media segment has previously been presented. The examiner asserts that FIG. 8 and associated description disclosed by Bryant teaches this limitation.

The examiner asserts that Plotnick discloses the additional limitations recited in the dependent claims.

ARGUMENT

I. THE ISSUE UNDER 35 U.S.C. §103(a) – PLOTNICK IN VIEW OF BRYANT

- A. The rejection should be reversed because Bryant does not disclose or suggest that the alternative presentation data is presented for a time period equivalent to an initial length of time for a presentation of the at least one rich media segment less a length of time that the at least one rich media segment has previously been presented.

The rejection of claims 1, 21, and 26 should be reversed because the examiner has incorrectly construed Bryant. Although Bryant discloses a broadcast system that broadcasts a plurality of programming media segments (program base segments 813 in FIG. 8) and a rich media segment (fill segment 812), Bryant does not disclose or suggest to display the entire fill segment 812 in the event the channel is interrupted. That is, Bryant does not disclose or suggest to display the fill segment 812 for a time period equivalent to an initial length of time for a presentation of the fill segment 812 less a length of time that the fill segment 812 has previously been presented.

Bryant shows in FIG. 8 a method for a cable operator (CO) 820 to generate alternate fill segments 812 (C or D) and a mechanism for selecting between the alternate fill segments (C or D) to be displayed on a TV, such as a set top box (STB) 833 selecting fill segment D to be displayed on the TV as shown in FIG. 8. However, if the STB 833 selects fill segment D for

display, and the user changes the channel on the TV, nothing in Bryant discloses or suggests to display the remainder of fill segment D either immediately, or at a later time. In Bryant, if the user changes the channel on the TV, the alternate fill segments would change relative to the newly selected channel (the remainder of fill segment D would not be displayed). That Bryant discloses to synchronize the fill segments to a common time base has nothing to do with the continued display of a fill segment (immediate or delayed) in the event the current channel is interrupted (e.g., when the channel is changed). The rejection should be withdrawn.

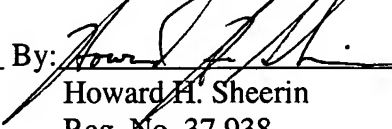
The rejections of the remaining claims should be withdrawn for at least the reasons set forth above.

CONCLUSION

Reversal of the rejections in this appeal is respectfully requested.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account No. 23-1209, and please credit any excess fees to such deposit account.

Respectfully submitted,

Date: 6/14/05 By: 
Howard H. Sheerin
Reg. No. 37,938
Tel. No. (303) 765-1689

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on:

6/14/05 Howard H. Sheerin
(Date) (Print Name)


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APPENDIX

A complete listing of the claims on appeal:

1. A method for saving alternative presentation data, the method comprising:
 - a. receiving a broadcast stream on a selected channel, the broadcast stream comprising a plurality of programming media segments and at least one rich media segment associated with the alternative presentation data, the at least one rich media segment and the associated alternative presentation data being embedded within the plurality of programming media segments;
 - b. commencing presenting the at least one rich media segment on the selected channel; and
 - c. saving the alternative presentation data associated with the at least one rich media segment if presenting the at least one rich media segment on the selected channel is interrupted prior to completely presenting the at least one rich media segment on the selected channel; and
 - d. presenting the saved alternative presentation data associated with the rich media segment for a time period equivalent to an initial length of time for a presentation of the at least one rich media segment less a length of time that the at least one rich media segment has previously been presented.
2. (canceled).
3. The method of Claim 1, wherein presenting the alternative presentation data occurs simultaneously with presenting of at least one of the programming media segments of the broadcast stream.
4. The method of Claim 1, wherein the alternative presentation data is presented on the selected channel.
5. (canceled)
6. The method of Claim 1, further comprising storing tracking information for the presenting of the alternative presentation data.

1 7. The method of Claim 6, further comprising transmitting the tracking information for the
2 presenting of the alternative presentation data for storage in a database.

1 8. The method of Claim 1, wherein the alternative presentation data is stored as metadata.

1 9. The method of Claim 1, further comprising storing tracking information for the presenting of
2 the at least one rich media segment.

1 10. The method of Claim 9, further comprising transmitting the tracking information for the
2 presenting of the at least one rich media segment for storage in a database.

1 11. The method of Claim 1, further comprising storing tracking information for the interruption
2 of presenting of the at least one rich media segment.

1 12. The method of Claim 11, further comprising transmitting the tracking information for the
2 interruption of presenting of the at least one rich media segment for storage in a database.

1 13. The method of Claim 1, wherein the alternative presentation data is the same as the at least
2 one rich media segment.

1 14. The method of Claim 1, wherein the alternative presentation data is different than the at least
2 one rich media segment.

1 15. The method of Claim 1, wherein the at least one rich media segment is an advertisement.

1 16. The method of Claim 1, wherein an expiration time is stored with the alternative presentation
2 data, and wherein the alternative presentation data is discarded if the alternative presentation
3 data is not presented prior to the expiration time.

1 17. The method of Claim 1, wherein the alternative presentation data is stored on a hard disk
2 drive.

1 18. The method of Claim 1, wherein presenting of the at least one rich media segment is
2 interrupted if a user changes from the selected channel to a different channel.

1 19. The method of Claim 1, wherein the at least one rich media segment comprises video data.

1 20. The method of Claim 1, wherein the at least one rich media segment comprises audio data.

1 21. A personal video recorder for saving alternative presentation data associated with a rich media
2 segment included in a broadcast stream when viewing of the rich media segment on a display
3 is interrupted, the personal video recorder comprising:

- 4 a. a viewer control interface configured to allow the viewer to interrupt the viewing of the
5 rich media segment;
- 6 b. a storage device for storing the alternative presentation data in response to the viewer
7 interrupting the viewing of the rich media segment; and
- 8 c. a controller responsive to the viewer control interface and connectable to the display, the
9 controller configured to receive signals indicating the interruption of the rich media
0 segment, to store the alternative presentation data associated with the rich media segment
1 on the storage device when a signal is received from the viewer control interface
2 indicating the interruption of the rich media segment and to present the saved alternative
3 presentation data that is associated with the rich media segment for a time period
4 equivalent to an initial length of time for a presentation of the at least one rich media
5 segment less a length of time that the at least one rich media segment has previously been
6 presented.

1 22. The personal video recorder of Claim 21, wherein the storage device is a hard disk drive.

1 23. The personal video recorder of Claim 21, wherein a channel change generates the signal
2 indicating the interruption of the rich media segment.

1 24. The personal video recorder of Claim 21, wherein a tuner change generates the signal
2 indicating the interruption of the rich media segment.

1 25. The personal video recorder of Claim 21, wherein the rich media segment is an
2 advertisement.

- 1 26. A digital audio receiver for saving alternative presentation data associated with a rich media
2 segment included in a broadcast stream when playing of the rich media segment on an audio
3 output device is interrupted, the digital audio receiver comprising:
- 4 a. a listener control interface configured to allow the listener to interrupt the playing of the
5 rich media segment;
 - 6 b. a storage device for storing the alternative presentation data in response to the listener
7 interrupting the playing of the rich media segment; and
 - 8 c. a controller responsive to the listener control interface and connectable to the audio
9 output device, the controller configured to receive signals indicating the interruption of
0 the rich media segment, to store the alternative rich media segment associated with the
1 rich media segment on the storage device when a signal is received from the listener
2 control interface indicating the interruption of the plying of the rich media segment and to
3 present the saved alternative presentation data that is associated with the rich media
4 segment for a time period equivalent to an initial length of time for a presentation of the
5 at least one rich media segment less a length of time that the at least one rich media
6 segment has previously been presented.
- 1 27. The digital audio receiver of Claim 26, wherein the storage device is a hard disk drive.
- 1 28. The digital audio receiver of Claim 26, wherein a channel change generates the signal
2 indicating the interruption of the rich media segment.
- 1 29. The digital audio receiver of Claim 26, wherein a tuner change generates the signal
2 indicating the interruption of the rich media segment.
- 1 30. The digital audio receiver of Claim 26, wherein the rich media segment is an advertisement.